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MAR 7 1988

Dear Sir or Madam:

We have considered your application for exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

Section 501(c)(3) of the Code exempts organizations "...organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, ...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. In your organization's case, the organizational and operational tests have not been met.

Section 1.501(c)(3)-1(b)(1)(i) of the Income Tax Regulations provides that an organization is organized for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Income Tax Regulations states that an organization does not meet the organizational test if its articles of organization do not contain a provision providing for distribution of its assets to an organization with similar exempt purposes.

The purposes as stated in your articles of incorporation are too broad to come within the preview of section 501(c)(3) of the Internal Revenue Code as they provide for the management, maintenance, and preservation of the [REDACTED].

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	2/5/88	2/29/88	3/7/88				

[REDACTED]

The organizational test is also failed by the lack of a provision in the articles of incorporation, to dedicate the assets of the organization to section 501(c)(3) purposes upon the dissolution of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization is not organized or operated exclusively for one or more exempt purposes described in section 501(c)(3) of the Internal Revenue Code unless it serves a public rather than a private interest.

In Revenue Ruling 74-17, 1974-1 C.B. 130, it was held that a condominium housing association formed by unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project with membership assessments paid by unit owners does not qualify for exemption under section 501(c)(4) of the Internal Revenue Code.

The essential nature and structure of condominium ownership, both statutory and contractual, is inextricably and compulsorily tied to the owner's acquisition and enjoyment of the property. Basic condominium ownership necessarily involves common ownership of all condominium property in the development, the care and maintenance of which would constitute the provision of private benefit to the owners.

Your organization is operating essentially to manage and maintain the common grounds of the condominium property and provide other services for the private benefit of members/condominium owners. You are not operating exclusively for one or more purposes described in section 501(c)(3) of the Code of serving a public interest.

Therefore, we have concluded that you do not qualify for exemption under section 501(c)(3) or any other section of 501(a) of the Internal Revenue Code.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional office conference staff. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 392. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office, or if you request, at any mutually convenient District office. If we do not hear from you within 30 days of this letter, this determination will become final. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment of decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

You are required to file federal income tax returns on Form 1120 within two and one-half months following the end of your annual accounting period.

Sincerely yours

[REDACTED]

District Director

Enclosure: Publication 892

cc: State Officials-[REDACTED]